

# **TELEKOMMUNIST MANIFESTO DRAFT**

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# THE TELEKOMMUNIST MANIFESTO

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# 4.1. THE TELEKOMMUNIST MANIFESTO

The only way to change society is to produce and share differently.

Capitalism has its means of self-reproduction: Venture Capitalism. By using exclusive access to the great accumulations of wealth resulting from the continuous capture of surplus value, Capitalists offer the participants of each new generation of innovators a chance to be a junior partner in their club by selling the future productive value of what they create in exchange for the present wealth they need to get started. The stolen, dead value of the past captures the unborn value of the future. For us to expand the scope of our commons we must create a chance for innovation to be born and allowed to develop in a free commons, and for this we need Venture Communism. We must develop ways to create and to reproduce commons-based productive relationships. The degree to which the products of labour are captured by commons-based producers or by appropriators will determine which kind of society we will have, one based on co-operation and sharing, or one based on force and exploitation. The motivation to engage in a venture communist struggle against class stratification could not be more vital, for not only does our society face the age-old afflictions of poverty and injustice, but it becomes increasingly clear that production levels to sustain the accumulation of an elite few drive us repeatedly into war and inevitably towards environmental catastrophe. Failure to achieve a more equitable society likely brings consequences far graver than society can afford to bear. To succeed the space, instruments and resources we need must be a common stock employed in production by a dispersed community of peers, producing and sharing as equals.

Politics is not a battle of ideas; it is a battle of capacities. Ideas are powerful, and their development and implementation can certainly have a political impact, however which ideas are developed and implemented is determined not by their intrinsic value, but by the relative power of those whom they benefit versus those whom they threaten. The capability to change a social order, for better or for worse, is rooted in the ability to impose change, which requires the wherewithal to overcome competing capacities for, among things, communication and lobbying. All capacities are, at their base, economic capacities, to cause change requires that enough wealth be applied to overcome the wealth of those who would resist such a change. Such wealth can only come from production. New ways of producing and sharing must always precede any change in the social order. New kinds of relationships, if they can create new productive relations, are needed to constitute a new economic structure which is able to give rise to a new kind of society. No social order, no matter how entrenched and ruthlessly imposed, can resist being transformed when new ways of producing and sharing emerge.

Society is composed of social relationships. The relations of production constitute the economic structure of society, on which arises the legal and political structures that define it. Relations between buyer and seller, between tenant and landlord, between employee and employer, between those born to wealth and privilege and those born to precarity and struggle are all outcomes of the relations of production. These relationships are a consequence of how things are produced and shared in society. Those who are able to control the circulation of the product of the labour of others can impose laws and social institutions according to their interests. Those who are not able to retain control of the product of their own labour are not able to resist.

Capitalism depends on the appropriation of value for its subsistence and growth. The disingenuous rhetoric of "Free Markets" is a smoke screen to justify a system of privilege and exploitation. In a free market, competition among producers would reduce the price of everything to the lowest level that it can be produced for. If everything truly traded in a perfect market, then land and capital, like labour would never be able to earn any more than the cost of providing it. There could be no class that is exempt from working as they would be no income to sustain such a class. In reality, the "free market" is what property owners want to impose on workers, while retaining their own privileges. Capital needs to make the price of labour low enough to prevent workers, as a class, from being able to retain enough of their own earnings to acquire their own property. If workers could acquire their own property, they could also stop selling their labour to the capitalists. Capitalism could not exist in a free market. The whole idea of the "free market" is part of the mythology of capitalism, is not possible within capitalism and just as unlikely to exist without it. "Free" from the coercion of profit-seeking Capitalists, producers would produce and share for social value, not for profits, as they do in their private and family lives, and as they have in non-capitalist communities. This is not to say that a free society would not have competition or that its members would not seek to benefit from their own labour, the division of labour required in a complex society implies exchange. The metaphor of "the market" as it is currently used would no longer dominate. The need to account value exchange in tiny and reductive lists of individually priced transactions would be superseded by more fluid and generalized forms of exchange. The motive to maximize profit from ownership, so often the driving force behind

irrational and destructive production, would give way to much stronger motive, doing work that has direct benefits for our lives and our society, production that fulfils our real world needs and desires.

The State's traditional role of mediating between the classes on behalf of the ruling class depends on its territorial sovereignty.

The State's ability to grant title and privilege is based on its ability to enforce privilege with its monopoly on the legitimate use of violence. Communications based on global peer networks have a chance to resist and evade such title and privilege. Social relations among transnational, trans-local communities operate within an extra-territorial space, one where title and privilege could give way to mutual interest and negotiation. Modes of production employing structures similar to peer to peer networks, have relations reminiscent of the historic pastoral commons, yet rather than being located in a specific place, create a commons that spans the planet, offering our society a hope for a way out from the class stratification of Capitalism by undermining its logic of control and extraction.

Specters of such a potential mode of production can be readily found. Peer networks, such as the Internet, and all the material and immaterial inputs that keep them running, serve as a common stock that is used independently by many users. Free Software, whose production and distribution frequently depends on peer networks, is a common stock, available to all. Free software is produced by diverse and distributed producers who contribute to it because the value they gain when they employ it in their own production is greater than the value of their individual contributions to it. Popular attacks on the rents captured by the recording and movie Industries by users of file sharing technologies show us the difficulties faced by those whose incomes depends on controlling reproduction. Mass transportation and international migration have created distributed communities who maintain on-going interpersonal and often informal economic relationships across national borders. All these are examples of new productive relationships that transcend the currently dominant property-based ones. They point to a potential way forward. Our success depends on our ability to prevent property owners from capturing the value of our production.

Developments in telecommunications, notably the emergence of peer networks such as the Internet, along with international transportation and migration, create broad revolutionary possibilities resulting from dispersed communities with the ability to instantly interact on a global scale. Our lives and relationships no longer need to be confined by territorially bounded nation states. Though coercive elements in the political and corporate hierarchy impose ever more draconian controls to resist our ability to evade such confinement, we can place our revolutionary hopes in the possibility that the scale of change is simply so large that they can never fully succeed.

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In order to change society we must actively expand the scope of our commons, so that our independent communities of peers can be materially sustained and can resist the encroachments of Capitalism.

Whatever portion of our productivity we allow to be taken from us, will return in the form of our own oppression.

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## 2. FOREWORD

I coined the term "Venture Communism" in 2001 to promote the ideal of workers self-organization of production as a way of addressing class conflict. Telekommunisten is a collective based in Berlin, Germany, where I have lived since 2003. I first encountered the term "Telekommunisten" (which became the name of the collective) in 2005, while visiting the apartment of a friend. He and his roommate had given the name "Telekommunisten" to the local area network used in their apartment to share Internet access. Telekommunisten had been used as a derogatory term for Germany's former state telephone company, Deutsch Telekom, which is now a private transnational corporation whose "T-Mobile" brand is known worldwide. The usage of communist here is intended to cast the Telephone company as a monolithic, authoritarian, and bureaucratic behemoth. This is a completely different sense than the one in which I use the term as a positive one for engagement in class conflict towards the goal of a free society without economic classes, one where people produce and share as equals, a society that has no property and no State, and produces not for profit, but for social value. We are not simply a collective of worker-agitators working in the sphere of telecommunications, Telekommunisten promote the notion of a distributed communism; a communism at a distance; a Tele-communism. A venture commune is not bound to one physical location where it can be isolated and confined. Similar in topology to a peer-to-peer network, Telekommunisten is intended to be decentralized, with only minimal co-ordination required among it's international community of producer-owners.

My background is in the hacker and art communities, in which I have been active since the early 90s. My views have been developed and expressed in on-line and off-line correspondence in the course of my involvement in software development, activism and cultural production. Although I have written a few essays over the years, those who know my work generally know me personally through encounters in electronic and physical social spaces. The present work is a "Manifesto," not in the sense that it outlines a complete theoretical system, a dogmatic set of beliefs or the platform of a political movement, but in the spirit of the meaning of manifesto as a beginning or introduction. Matteo Pasquinelli, who pushed me to undertake this "Manifesto," felt that my role as a background voice in our community was too underground and declared it was "Time to come out" with a published text. He connected me with Geert Lovink, who suggested the structure and approach of the text and offered to serve as editor and, through the Institute of Network Cultures, as its publisher.

The Telekommunist Manifesto is largely a cut-up and reworking of texts I've produced and co-produced over the last few years. It incorporates significant passages from "Copyright, Copyleft and the Creative Anti-Commons" produced in co-operation with Joanne Richardson and originally published under "Anna Nimmus" on the subsol website. Much of the text regarding the commercialization of the Internet is taken from "Infoenclosure 2.0," co-written with Brian Wyrick originally published in Mute Magazine. Credit is also due to Mute Magazine editors Josephine Berry Slater and Anthony Iles, for their work on "Infoenclosure 2.0" and "Copyjustright, Copyfarleft," much of which is reused here.

This publication is intended as summary of the positions that motivate the Telekommunisten project, based as it is in an exploration of class conflict in the age of international telecommunications, global migration, and the emergence of the information economy. The goal of this text is to introduce the political motivations of Telekommunisten, including a sketch of the basic theoretical framework in which it is rooted, covering views on political economy and intellectual property. The text also covers some broader topics, such as workers self-organization of production, anti-copyright/copy-left dissent against intellectual property, and peer to peer as a networked application topography, as well as a set of relations with growing social implications as networks become more central to how we produce and share. The Telekommunist manifesto is also intended to introduce the reader to some the specific theoretical components of the project, such as Venture Communism and Copyfarleft, and to explain why we have chosen to struggle against capitalism by way of the international telephone system.

The economic analytical models employed in this text are heterodox, based in the ubiquitous terms of classical political economy and borrowing from its diverse theorists and critics. This text is especially addressed to politically motivated artists, hackers and activists, not to evangelize a fixed position, but to contribute to an ongoing critical dialogue.

# 3. INTRODUCTION

In the preface to "A Contribution to the Critique of Political Economy," Marx and Engels argue "At a certain stage of their development, the material productive forces of society come in conflict with the existing relations of production." What is possible in the information age is in direct conflict with what is permissible. Publishers, film producers and the telecommunication industry conspire with lawmakers to bottle up and sabotage free networks, to forbid information from circulating outside of their control. The corporations in the recording industry continue to forcibly maintain their position as mediators between artists and fans, while fans and artists merge closer together and explore new ways of interacting. Competing software makers, like arms manufacturers, play both sides in this conflict; providing the tools to impose control, and the tools to evade it. The non-hierarchical relations made possible by a peer network such as the Internet are contradictory with Capitalism's need for enclosure and control. It's a battle to the death, either the Internet as we know it must go, or Capitalism as we know it must go. Will Capital throw us back into a network dark-ages inspired by CompuServ, Mobile Telephones and Cable TV rather than allow peer communications to bring about a new society? Yes. If they can. Marx and Engels go on to conclude "No social order ever perishes before all the productive forces for which there is room in it have developed; and new, higher relations of production never appear before the material conditions of their existence have matured in the womb of the old society itself."

The Internet represents a powerful platform for new forms of production to emerge, however, the rapid commercialization of the Internet is increasing the centralization of ownership and control of Internet-based communications platforms. This is visible in the consolidation of Internet service providers by massive international telecommunications conglomerates. This rise of Social Media and "Web 2.0" have pushed more free, decentralized "peer to peer" systems to the clandestine margins of the network while "cloud computing" further centralizes the infrastructure. If new ways of producing and distributing wealth do not emerge to challenge the capitalist order, ways which are not based on force and enclosure, it is not only the freedom of the Internet that will be lost, but the chance to remake society in its image will be lost with it.

The Telekommunist Manifesto is an exploration of class conflict and property, born in the realization of the primacy of economic capacity in social struggles. Much emphasis is placed on the distribution of productive assets and their output. The interpretation here is always tethered to the understanding that wealth and power are intrinsically linked, and only through the former can the latter be achieved. As a collective of intellectual workers, the work of Telekommunisten is very much rooted in the free software and free culture communities. However, a central premise of this Manifesto is that engaging in software development and the production of immaterial cultural works is not enough. The communization of immaterial property alone can not change the distribution of material productive assets, and therefore can not eliminate exploitation. Only workers self-organization of production can. Venture Communism is a form of struggle against the continued expansion of property-based capitalism, it is a model for worker self-organization inspired by the topology of peer to peer networks and the historical pastoral commons.

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# 5. THE OPRESSIVE INSTITUTION OF PROPERTY

Property is by its nature antagonistic to freedom. Property is the ability to control productive assets at a distance, the ability to "own" something being put to productive use by another person. Property makes possible the subjugation of individuals and communities. Where property is sovereign there can be no freedom within its domain. The owners of scarce property can deny life by denying access to property, or if not outrightly denying life, then make the living work like slaves for no pay beyond their reproduction costs.

British classical political economist David Ricardo first described Economic Rent in the early 19th century. Put simply, economic rent is the income Venetian Statute on Industrial Brevets the owner of a productive asset can earn just from ownership itself. The owner earns Rental income not by doing anything or making any sort of contribution, but just by owning. In the terms of John Stewart Mill, the rent collector earns money even as he sleeps. Take for example two identical buildings, one in a major economic center, and one in a minor city, while both may be of identical materials, both require identical amount of work to maintain, in terms of the costs that must be undertaken by the owners to bring these buildings to market at dwellings or commercial spaces there is no difference. The building in the major city will however earn more income than the one in the minor city, not withstanding the equal amounts of work and expense undertaking to maintain them. This difference is Rent. Rent is not collected for any contribution to production, but because of legal privilege such as a title to a valuable location. This does not mean that the owner does not ever do anything, only that the value of whatever contribution they make is not calculated as "Rent." Rent, in economic terms, is the income earned for allowing others to use property, ultimately, this income is derived by claiming a portion of what they produce as your own. As our ability to provide for our material subsistence requires access to the property that makes up our "means of production" we must agree to transfer a portion of what we produce to those that allow us to access such means, or else we could not live. The portion of a producer's productive output that can be demanded for the right to exist is the entire total of their productive output, minus the producer's subsistence costs. This is the conclusion reached by David Ricardo in his 1817 "Principles of Political Economy and Taxation," and this is the basic bargaining position faced by all of us who are born into a world entirely owned by others.

In his "Essay on Profits," David Ricardo argues: "The interest of the landlord is always opposed to the interest of every other class in the community." This analysis was not based on social milieu such as upper class or lower class, but rather based upon relationship with the factors of production, landlord or capitalist, and thus is based on class conflict. As a representative of the emergent Capitalist class, Ricardo did not intend his critique of land rent to be extended to the income earned by Capitalists. Critical commentators like William Thompson and Thomas Hodgskin, the best know of the "Ricardian Socialists" did just that, arguing that profits earned by Capitalists are just as exploitive and unearned as the rents of landlords, and from their work the critique of "Capitalism," a term coined to draw an analogy with Feudalism, begins. Thompson and Hodgskin pointed out that the interests of workers are opposed to the interests of both landlords and capitalists. Socialism and all other movements of the "left" start with this class conflict as their point of departure. The belief that producers themselves should own the means of production was already common among socialists of the time, notably among the supports of Robert Owen and the co-operative movement. Understanding class as being based on relationship to the factors of production, not on categories such as rich and poor, or noble, clergy and peasant, but as Capitalist, Landlord, and Worker, provided a solid intellectual foundation that allowed a more scientific socialism to emerge from its Utopian roots.

Rent allows owners of scarce property to drive property-less workers to subsistence. David Ricardo explains: "The natural price of labour is that price which is necessary to enable the labourers, one with another, to subsist and to perpetuate their race". It is often claimed that this can be refuted because of the difference between the theoretical "natural" price and the actual market price of labour, but such an argument is simply an equivocation, Ricardo himself explains that market price fluctuates. Subsistence should not be taken to mean the bare minimum required to actually survive and reproduce. Even in Ricardo's time, most workers were generally not in the position that if they earned one penny less they would immediately fall over and die. Rather, workers, by their very definition, are unable to earn enough to do anything more than make a living and struggle to live according the acceptable standards of their community. The "acceptable standards" are established in terms of the canons of taste and decency established by a predatory economic elite. Thorstein Veblen, a Norwegian-American economist and sociologist who's work lays the foundation for the institutional economics movement argues that it is an essential feature of class society that in order to live according to our community standards of respectability all but the very richest must dispose of practically their entire income in what Veblen calls "Conspicuous Consumption" and "Conspicuous Waste" or else face social exclusion and further reduced prospects of upward mobility. "Failure to consume in due

quantity and quality becomes a mark of inferiority and demerit" Veblen argues in his 1899 "The Theory of the Leisure Class"

Workers have more than cultural forces working against their ability to form Capital from whatever earnings that retain beyond subsistence. So long as workers do not have property, whatever wage increases they gain are swept away by price inflation, most often as the result of increased money competition for locations and the increase of land rents. This is no secret to Capitalist negotiators and their public sector collaborators. Reducing real wages by inflation as an alternative to reducing money wages works because of the "money illusion." As John Maynard Keynes, perhaps the most important economist of his day and the founder of modern "macroeconomics" writes in his 1936 "The General Theory of Employment, Interest, and Money": "It is sometimes said it would illogical for labour to resist a reduction of money-wages but not to resist a reduction of real wages [...] experience shows that this is how labour in fact behaves." Daniel Bell makes this process clear in his paper "The Subversion of Collective Bargaining," where he examines several cases of wage increases won by collective bargaining and shows that these do not lead to a change in the general level of real wealth, in most cases workers who received wage increase had not increased their share of wealth, only wound up paying higher prices.

Property is not a natural phenomenon, but rather something that is created by law. The ability to extract rent is dependent on one's ability to control a scarce resource even when it is being used by somebody else. In other words, the ability to force that other person to share the product of their labour with the property owner. Property is control at a distance. In this way, rent is only possible so long as it is supported by force, which is happily provided by the State to the owners of property. Without a means of forcing those who put property to productive use to share the product of their labour with the absent and idle property owner, the property owner could not earn a living, let alone accumulate more property. As German revolutionary Marxist Ernest Mandel claims in "Historical Materialism and the Capitalist State" (1980): "Without capitalist state violence, there is no secure capitalism." The purpose of property is to ensure that a property-less class exists to produce the wealth enjoyed by a propertied class. The institution of property does not benefit workers. This is not to say that individual workers cannot become property owners, but rather that to do so means to escape their class. Individual success stories do not change the general case. As Canadian political philosopher Gerald Cohen, proponent of Analytical Marxism, quipped, "I want to rise with my class, not above my class!"

The current global situation confirms that it is the case that workers, as a class, are not able to accumulate property. A study by the World Institute for Development Economics Research at United Nations University reports that the richest 1% of adults alone owned 40% of global assets in the year 2000, and that the richest 10% of adults accounted for 85% of the world total. The bottom half of the world adult population owned barely 1% of global wealth. Extensive statistics, many indicating growing world disparity, are included in the report.

It is in the context of this great disparity of wealth and the struggle between classes that any investigation of intellectual property must be understood.

## 6. TRAPPED IN THE WORLD WIDE WEB

While computers and digitization have fueled the flames of disputes surrounding intellectual property, the networked applications used to share and collaborate have also become a contested field. The revolutionary possibilities of the Internet lay particularly in the fact that it allows direct interaction between users, that it promised to be a platform where freedom of speech and association was built into the architecture. However without most users noticing, the architecture is being changed and the topology of the network is being remade in such a way that not only serves the interests of Capitalism, but also enables monitoring and control of its users on a scale never dreamed of before.

The Internet took the corporate world by surprise, coming as it did out of publicly funded universities, military research, and civil society. It was promoted by way of a cottage industry of small independent Internet service providers who were able to squeeze a buck out of providing access to the state-built and financed network. Meanwhile, the corporate world was pushing a different idea of the Information Superhighway, producing monolithic, centralized "on-line services" like CompuServe, Prodigy and AOL. What made these different from the Internet is that they were centralized systems that all users connect directly to, while the Internet is a peer-to-peer network and every device with a public Internet address can communicate directly to any other device. This is what makes peer-to-peer technology possible and is also what makes independent Internet service providers possible. While both users of CompuServe and the Internet had access to similar applications, namely email, discussion groups, chat groups and file sharing, users of CompuServe were completely dependent on CompuServe for access to these, while users of the Internet could gain access through any service provider, and could even choose to run their own servers. Platforms such as Internet Email, Usenet and Internet Relay Chat were based on a distributed structure that no one entity owned or controlled. This was fine for the public institutions and NGOs that were the most enthusiastic adopters of the Internet, however capitalist investors were unable to see how such an unrestrictive system would allow them to earn profits. The Internet seemed anathema to the capitalist imagination. The original dotcom boom, was characterized by a rush to own the infrastructure, to consolidate the independent Internet service providers and take control of the network. Money was thrown around quite randomly as investors struggled to understand what this medium would actually be used for, however the overall mission was largely successful. Their mission was to destroy the independent service provider and put large, well-financed corporations back in the driver's seat. If you had an Internet account in 1996 it was likely provided by some small local company. Ten years later, while some of the smaller companies have survived, most people get their Internet access from gigantic telecommunications corporations.

The World Wide Web is a technology that runs on top of the Peer-to-Peer Internet. However, it is unlike the classic Internet technologies mentioned earlier, it is neither distributed, nor peer to peer. The web is a Client-Server technology. The publisher of a website runs the servers and has exclusive control over the content and applications their website provides, including control of who should or should not have access to it, the users run only a browser, which is client software used to access the website. A website is far more similar to CompuServe than it is to a peer to peer system. The publisher has full control of the content and options available to the users. The web started innocently enough as a platform for publishing text on-line. Very quickly, however, it became the focus of the commercialization of the Internet, from modest beginnings as a companies began to put brochures on-line, the commercial web took off with the development of e-Commerce. So far, the web had not yet taken over on-line sharing. People used the web to browse a book store, but continued to employ distributed technologies to communicate with other users. However soon enough the web, funded by venture capital, would move in and make websites operate by large corporations into the primary on-line social platforms. The Internet itself would disappear behind the web, the users would never again leave their browser. Web 2.0 emerged as a venture capitalist's paradise where investors pocket the value produced by unpaid users, ride on the technical innovations of the free software movement, and kill off the decentralizing potential of peer-to-peer technology.

Wikipedia says that "Web 2.0, a phrase coined by O'Reilly Media in 2004, refers to a supposed second generation of Internet-based services, such as social networking sites, wikis, communication tools, and folksonomies, that emphasize on-line collaboration and sharing among users." The use of the word "supposed" is noteworthy. As probably the largest collaboratively authored work in history, and one of the current darlings of the Internet community, Wikipedia should know. Unlike most of the members of the Web 2.0 generation, Wikipedia is controlled by a non-profit foundation, earns income only by donation, and releases its content under a copyleft. It is telling that Wikipedia goes on to say "[Web 2.0] has become a popular (though ill-defined and often criticized) buzzword among certain technical and marketing communities."



The free software community has tended to be suspicious, if not outright dismissive, of the Web 2.0 moniker. Tim Berners-Lee dismissed the term, saying: "Web 2.0 is of course a piece of jargon, nobody even knows what it means." He goes on to note that "it means using the standards which have been produced by all these people working on Web 1.0." In reality there is neither a Web 1.0 nor a Web 2.0. There is only an ongoing development of on-line applications that cannot be cleanly divided. In trying to define what Web 2.0 is, it is safe to say that most of the important developments have been aimed at enabling the community to create, modify, and share content in a way that was previously only available to centralized organizations that bought expensive software packages, paid staff to handle the technical aspects of the site, and paid staff to create content which generally was published only on that organization's site.

A Web 2.0 company fundamentally changes the production of Internet content. Web applications and services have become cheaper and easier to implement, and by allowing the end users access to these applications, a company can effectively outsource the creation and the organization of their content to the end users themselves. Instead of the traditional model of a content provider publishing their own content and the end user consuming it, the new model allows the company's site to act as the centralized portal between the users who are both creators and consumers. For the user, access to these applications empowers them to create and publish content that previously would have required them to purchase desktop software and possess a greater technological skill set. For example, two of the primary means of text-based content production in Web 2.0 are blogs and wikis, which allow the user to create and publish content directly from their browser without any real need for knowledge of markup language, file transfer or syndication protocols, and all without the need to purchase any software.

The use of the web application to replace desktop software is even more significant for the user when it comes to content that is not merely textual. Not only can web pages be created and edited in the browser without purchasing HTML editing software, photographs can be uploaded and manipulated on-line through the browser without the need for expensive desktop image manipulation applications. A video shot on a consumer camcorder can be submitted to a video hosting site, uploaded, encoded, embedded into an HTML page, published, tagged, and syndicated across the web all through the user's browser. In Paul Graham's article on Web 2.0, he breaks down the different roles of the community/user into more specific roles. These include the Professional, the Amateur, and the User (more specifically, the end user). The roles of the Professional and the User were, according to Graham, well understood in Web 1.0, but the Amateur didn't have a very well defined place. As Graham describes it in "What Business Can Learn From Open Source," the Amateur just loves to work, with no concern for compensation or ownership of that work; in development, the Amateur contributes to open source software whereas the Professional gets paid for their proprietary work.

Graham's characterization of the "Amateur" has an odd similarity with "If I Ran The Circus" by Dr. Suess, where young Morris McGurk says of the staff of his imaginary Circus McGurkus:

My workers love work. They say, "Work us! Please work us!

We'll work and we'll work up so many surprises

You'd never see half if you had forty eyes!"

And while "Web 2.0" may mean nothing to Tim Berners-Lee, who sees recent innovations as no more than the continued development of the web, to venture capitalists, who like Morris McGurk daydream of tireless workers producing endless content and not demanding a pay cheque for it, it sounds stupendous. And indeed, from YouTube to Flickr to Wikipedia, you'd truly "never see half if you had forty eyes." Tim Berners-Lee is correct. There is nothing from a technical or user point of view in Web 2.0 which does not have its roots in, and is not a natural development from the earlier generation of the Web. The technology associated with the Web 2.0 banner was possible and in some cases readily available before, but the hype surrounding this usage has certainly affected the growth of Web 2.0 Internet sites. The Internet has always been about sharing between users. In fact, Usenet, the distributed messaging system, has been operating since 1979! Since then, Usenet has been hosting discussions, "amateur" journalism, and enabling photo and file sharing. Like the Internet, it is a distributed system not owned or controlled by anyone. It is this quality, a lack of central ownership and control, that differentiates services such as Usenet from Web 2.0.

If Web 2.0 means anything at all, its meaning lies in the rationale of venture capital. Web 2.0 represents the return of investment in Internet start-ups. After the dotcom bust (the real end of Web 1.0), those wooing investment dollars needed a new rationale for investing in on-line ventures. "Build it and they will come," the dominant attitude of the '90s dotcom boom, along with the delusional "new economy," was no longer attractive after so many on-line ventures failed. Building infrastructure and financing real capitalization was no longer what investors were looking for. Capturing value created by others, however, proved to be a more

attractive proposition. Web 2.0 is Internet Investment Boom 2.0. Web 2.0 is a business model; it means private capture of community-created value. No one denies that the technology of sites like YouTube, for instance, is trivial. This is more than evidenced by the large number of identical services such as DailyMotion. The real value of YouTube is not created by the developers of the site, but rather it is created by the people who upload videos to the site. Yet, when YouTube was bought for over a billion dollars worth of Google stock, how much of this stock was acquired by those that made all these videos? Zero. Zilch. Nada. Great deal if you are an owner of a Web 2.0 company.

The value produced by users of Web 2.0 services such as YouTube is captured by capitalist investors. In some cases, the actual content they contribute winds up as the property of site owners. Private appropriation of community-created value is a betrayal of the promise of sharing technology and free cooperation. Unlike the dotCom boom era, where investors often financed expensive capital acquisition, software development and content creation, a Web 2.0 investor mainly needs to finance hype-generation, marketing and buzz. The infrastructure is widely available for cheap, the content is free and cost of the software, at least that much of it that is not also free, is negligible. Basically, by providing some bandwidth and disk space, you are able to become a successful Internet site if you can market yourself effectively. The principal success of a Web 2.0 company comes from its relationship to the community. More specifically, the ability of the company to "harness collective intelligence," as O'Reilly puts it. Web 1.0 companies were too monolithic and unilateral in their approach to content. Success stories of the transition from to Web 2.0 were based on the ability for a company to remain monolithic in its brand of content, or better yet, its outright ownership of that content, while opening up the method of that content's creation to the community. Yahoo! created a portal to community content while it remained the centralized location to find that content. EBay allows the community to sell its goods while owning the marketplace for those goods. Amazon, selling the same products as many other sites, succeeded by allowing the community to participate in the "flow" around their products.

Because the capitalists who invest in Web 2.0 start-ups do not often fund early capitalization, their behaviour is markedly more parasitic as well. They often arrive late in the game when value creation already has good momentum, swoop in to take ownership and use their financial power to promote the service, often within the context of a hegemonic network of major, well-financed partners. This means that companies that are not acquired by venture capital end up starved of cash and squeezed out of the club. In all these cases, the value of the Internet site is created not by the paid staff of the company that runs it but by the users who use it. With all of the emphasis on community created content and sharing, it's easy to overlook the other side of the Web 2.0 experience: ownership of all this content and ability to monetize its value. To the user, this doesn't come up that often and is only part of the fine print in their Facebook Terms of Service agreement or it's the Flickr.com in the URL of their photos. It doesn't usually seem like an issue to the community and is a small price to pay for the use of these wonderful applications and for the impressive effect on search engine results when one queries one's own name. Since most users do not have access to alternative means to produce and publish their own content, they are attracted to sites like Facebook and Flickr.

It should be added that many open source projects can be cited as the key innovations in the development of Web 2.0: free software like Linux, Apache, PHP, Ruby, Python, etc. are the backbone of Web 2.0, and the web itself. But there is a fundamental flaw with all of these projects in terms of what O'Reilly refers to as the Core Competencies of Web 2.0 Companies, namely control over unique, hard-to-recreate data sources that get richer as more people use them. The harnessing of the collective intelligence they attract. Allowing the community to contribute openly and to utilize that contribution within the context of a proprietary system where the proprietor owns the content is a characteristic of a successful Web 2.0 company. Allowing the community to own what it creates, though, is not. Thus, to be successful and create profits for investors, a Web 2.0 company needs to create mechanisms for sharing and collaboration that are centrally controlled. The lack of central control possessed by Usenet and other peer controlled technologies is the fundamental flaw. They only benefit their users, not the absentee investors, as they are not "owned." Thus, because Web 2.0 is funded by the same-old Capitalism, Usenet is mostly forgotten. While everybody uses Digg and Flickr, and YouTube is worth a billion dollars, PeerCast, an innovative peer-to-peer live video streaming network that has been in existence for several years longer than YouTube, is virtually unknown.

From a technological standpoint, distributed and peer-to-peer (P2P) technologies are far more efficient than Web 2.0 systems. Making better use of network resources by using the computers and network connections of users, P2P avoids creating bottlenecks created by centralized systems and allows content to be published with less infrastructure, often no more than a computer and a consumer Internet connection. P2P systems do not require the massive data centers of sites such as YouTube. Distributed systems also tend to have greater longevity. Usenet has been subsumed, in some way by Google, who owns the largest Usenet archive and the most accessed Usenet web-based client, Google Groups. However because of the distributed nature

of Usenet, other means of access continue to exist in parallel, and while its role as an on-line platform has lost prominence, many newsgroups remain active, notably the Church of The SubGenius newsgroup, alt.slack, continues to be an important social forum for the popular US-Based mock religion. The lack of central infrastructure also comes with a lack of central control, meaning that censorship, often a problem with privately-owned "communities" that frequently bend to private and public pressure groups and enforce limitations on the kinds of content they allow. Also, the lack of large central cross-referencing databases of user information has a strong advantage in terms of privacy.

From this perspective, it can be said that Web 2.0 is capitalism's pre-emptive attack against P2P systems. Despite its many disadvantages in comparison to these, Web 2.0 is more attractive to investors and thus has more money to fund and promote centralized solutions. The end result of this is that capitalist investment flowed into centralized solutions, making them easy and cheap or free for non-technical information producers to adopt. Thus, this ease of access compared to the more technically challenging and expensive undertaking of owning your own means of information production created a "landless" information proletariat ready to provide alienated content-creating labour for the new info-landlords of Web 2.0. The mission of Web 2.0 is to destroy the P2P aspect of the Internet and to make you, your computer, and your Internet connection dependent on connecting to a centralized service that controls your ability to communicate. Web 2.0 is the ruin of free, peer-to-peer systems and the return of monolithic "on-line services." A telling detail here is that most home or office Internet connections in the 90s, modem and ISDN connections, were symmetric, equal in their ability to send and receive data. By design, your connection enables you to be equally a producer and a consumer of information. On the other hand, modern DSL and cable-modem connections are asymmetric, allowing you to download information quickly but upload slowly. Not to mention the fact that many user agreements for Internet service forbid you to run servers on your consumer circuit and may cut off your service if you do.

Capitalism, rooted in the idea of earning income by way of idle share ownership, requires centralized control without which producers have no reason to share their income with outside shareholders. Capitalism, therefore, is incompatible with free P2P networks, and thus so long as the financing of Internet development comes from private shareholders looking to capture value by owning Internet resources, the network will only become more restricted and centralized. And while the information commons may have the possibility of playing a role in moving society toward more inclusive modes of production, any real hope for a genuine, community enriching, next generation of Internet-based services is not rooted in creating privately owned, centralized resources, but rather in creating cooperative, P2P and commons-based systems, owned by everybody and nobody. Although small and obscure by today's standards, with its focus on peer-to-peer applications such as Usenet and email, the early Internet was very much a common, shared resource. Along with the commercialization of the Internet and the emergence of capitalist financing comes the enclosure of this information commons, translating public wealth into private profit. Thus Web 2.0 is not to be thought of as a second generation of either the technical or social development of the Internet, but rather as the second wave of capitalist enclosure of the Information Commons.

The third wave of enclosure is already coming into view. Cloud Computing provided by large corporations such as Google and Amazon, where customers do not own their physical infrastructure, is further centralizing the infrastructure of the Internet, and legislation such as the "Telecoms Reform Package" presented to the European Parliament, seeks to make it possible for service providers (large telecommunications conglomerates) to decide which websites their users are able access. Capital is showing us their vision of the future of the Internet, and the future looks a lot like CompuServe: Monolithic, centralized, mediated, controllable and exploitable, and, naturally, operated by a few large corporations.

Virtually all of the most used Internet resources could be replaced by P2P alternatives. Google could be replaced by a P2P search system, where every browser and every web server is an active node in the search process; Flickr and YouTube could also be replaced by PeerCast, BitTorrent and eDonkey-type applications, which allow users to use their own computers and Internet connections to collaboratively share their pictures and videos. However, developing Internet resources requires the application of wealth, and so long as the source of this wealth is finance capital, the great peer-to-peer potential of the Internet will remain unrealized. In order to develop alternative ways of producing and sharing we need an alternative to venture capital and its logic of capture and exploitation.

# 7. PEER PRODUCTION AND THE POVERTY OF NETWORKS

Imaging that a "better" copyright system or a "freer" Internet could exist within the present system of economic relations is to misplace the deterministic factors. The intrinsic truth in arguments against copyright and the clear technical superiority of distributed technologies over centralized ones have not been the deciding factors in the ultimate development of our intellectual property system or our global communications infrastructure, both of which have gotten more consolidated, regulated and restrictive. The determining factor is, as always, the fact that those who's interests are served by restricting freedom have more wealth with which to relentlessly push toward their ends than is available to resist them. The economic reasons for this are well understood, this numerically small class of Capitalists are the beneficiaries of an unfair distribution of productive assets that allows them to capture the wealth produced by the masses of property-less workers. If we want to have a say in the way copyright works (or to abolish it) or to influence the way communication networks are operated, or if we want to make any social reforms whatsoever, we must start by preventing property owners from turning our productivity into their accumulated wealth. The wealth they use to endorse restrictions on our freedoms is the wealth they have taken from us. Without us they would have no source of wealth, even the great accumulated wealth from centuries of exploitation can not ultimately save them if they are unable to continue to capture current wealth. The value of the future is far greater than the value of the past. Our ideas about intellectual property and network topology are ultimately no threat to Capitalism, who can always co-opt, sabotage or simply ignore them. It is the new ways of working together and sharing that are emerging that have the potential to threaten the capitalist order and bring about a new society.

Often discussions of the productive relations in free software projects and other collaborative projects such as Wikipedia attempt to bottle up commons-based production and trap it within the sphere of "immaterial production," restricting it exclusively to the domain where it can not affect wealth distribution and thereby play a role in class conflict. Yochai Benkler, Professor for Entrepreneurial Legal Studies at Harvard Law School, coined the term "Peer production" to describe the way free software, Wikipedia articles and similar works are produced. Benkler limits his analysis to the so-called "Networked Information Economy." The novelty of Peer Production as understood by Benkler and many others is that the property in the commons is entirely non-rivalrous property: Intellectual property and network transferable or accessible resources. Property with virtually no reproduction costs. Also, another distinguishing feature of this limited concept of Peer Production is that the producers in these examples do not receive remuneration for what they have produced since their products are available for free, for example users of free software do not compensate the original developers. Thus they claim that Peer Production is "Non-reciprocal."

There is no denying that Benkler's wealthy network has a lot to offer. The value of this information commons to its users is fantastic, as evident by the millions who employ Free Software, Wikipedia, on-line communications and social networking tools, etc. However, if commons-based peer-production is limited exclusively to a commons made of digital property with virtually no reproduction costs, how can the use-value produced be translated into exchange-value? Where is the money to pay for the production of these valuable things? Something with no reproduction costs can have no exchange-value in a context of free exchange, anybody who wants a copy can obtain one from anybody that has one. But if what they produce has no exchange-value, how can the peer producers be able to acquire the material needs for their own subsistence?

The wealthy network exists within a context of a poor planet. The source of the problem of poverty does not dwell in a lack of culture or information but in the direct exploitation of the producing class by the property-owning classes. The source of poverty is not reproduction costs but rather extracted economic rents, surplus value captured by way of forcing producers to accept less than the full product of their labour as their wage by denying them independent access to the means of production. So long as commons-based peer-production is applied narrowly to only an information commons while the capitalist mode of production still dominates the production of material wealth, owners of material property will continue to capture the marginal wealth created as a result of the productivity of the information commons. Whatever exchange value is derived from the information commons will always be captured by owners of real property, which lies outside the commons. For Peer Production to have any effect on general material wealth it has to operate within the context of an overall system of goods and services, where the physical means of production and the virtual means of production are both available in the commons for peer production. By establishing the idea of commons-based peer-production in the context of an information-only commons,

Benkler is creating a trap, ensuring the value created in the peer economy is appropriated by property privilege. We have found Benkler standing on his head, we will need to redefine peer production to put his head above his feet again.

It is not the "production" in "immaterial, non-reciprocal" production that is immaterial. The computers, the networks and the developers and their places of work and residence are all very much material and all require material upkeep. What is immaterial is the distribution. Digitized information, source code or cultural works, can multiply and zip across global networks in fractions of a second, yet production remains a very material affair. If Peer Production can only produce immaterial good, such as software, and the producers get nothing in return for such production, if Peer Production is "immaterial, non-reciprocal" production, then this form of "production" has no right to be called a mode of production at all. First and foremost any mode of production must account for its material inputs or else vanish, these inputs must include the subsistence costs of its labour contributors, to at minimum "enable the labourer's, one with another, to subsist and to perpetuate their race" in the words of Ricardo. "Immaterial, Non-reciprocal" production can not do so, since to produce free software, free culture or free soup the producers must draw their subsistence from some other source, and therefore "immaterial, non-reciprocal" production is not a form of production at all, only a special case of distribution within another form of production. "Immaterial, Non-reciprocal" production is no more a mode of production than a charity soup kitchen or socialized medicine. It is simply a super-structural phenomenon which has another mode of production as its base.

Rather than placing emphasis on the immaterial distribution of what is produced by current examples of Peer Production, we may note instead that such production is characterized by independent producers employing a common stock of productive assets. This view of Peer Production is not categorically limited to immaterial goods. Understood this way, the concept of Peer Production, where a network of peers apply their labour to a common stock for mutual and individual benefit, certainly resonates with age-old proposed socialist modes of production where a class-less community of workers ("peers") produce collaboratively within a property-less ("commons-based") society. Unlike the "immaterial, non-reciprocal" definition this formulation can account for its material inputs, its labour specialization, its means of capital formation, etc, and also better describes the productive basis of free software as well as more closely relates to the topology of peer networks from which the term is derived. Further, this formulation also is better rooted in history, as it describes historical examples of commons-based production such as the pastoral commons, cottage agriculture and cottage industry as well. As the distribution of productive assets is so much at the root of the inequality of wealth and power that perpetuates exploitive systems, a mode of production where productive assets are held in common is clearly a potentially revolutionary one if it could take root. However if the form of production can be contained to the immaterial, if it can be categorized as immaterial by definition, then its producers can not capture any of the value they create, and thus Harvard Law Professors strive to keep it so defined. However if we can implement ways of independently sharing a common-stock of material assets and thereby expand the scope of the commons to include material as well as immaterial goods, then direct producers who employ these assets in their production can retain a greater portion of their product.

Peer production is distinct from other modes of production. Worker's independently employing a common-stock of productive assets is a different mode, distinct from both capitalist and collectivist modes. The capitalist mode of production is exploitive by nature, its fundamental logic is to capture surplus value from labour by denying independent access to the means of production. However, collectivist modes can also be exploitive. For instance in Co-operative production, in which producers collectively employ jointly owned productive assets, the distribution of productive assets is likely to be unfair among different co-operatives, allowing one to exploit the other. Larger scale collectivist forms, such as Socialist states or very big diversified co-operatives can be said to eliminate the sort of exploitation that can occur between co-operatives, however, the expanding coordination layers needed to manage these large organizations give rise to a coordinator class, a new class consisting of a techno-administrative elite that has proven in historical examples to have the capacity to be just as parasitic and stifling to workers as a Capitalist class. However the community of Peer producers can grow without developing layers of co-ordination because they are self-organizing and produce independently, and as such they do not need any layers of co-ordination other than that what is needed to provision the common stock of productive assets, thus co-ordination is limited to allocation of the common stock among those who wish to employ it. It is no surprise then, that this sort of production has appeared and flourished where the common stock is immaterial property, the low reproduction costs eliminate allocation concerns. Thus what is needed for Peer production to incorporate material goods into the common-stock is a system for the allocation of material assets among the independent peers which imposes only a minimal co-ordination burden. Venture Communism is such a way.

## 8. VENTURE COMMUNISM

The core innovation of Copyleft was to turn the copyright system against itself. The chief vehicle of asserting control under copyright is the license the work is released under, this establishes the terms under which other are permitted to use the copyrighted material, thus copyleft uses the authority of the license to prescribe freedom, using the authority granted by copyright to guarantee that access for all and require that this freedom is passed on. This is consistent with the copyright laws, and dependent on them, as without copyright and the institutions that protect it, there could be no copyleft. Copyleft effectively hijacks the apparatus that exists to enforce intellectual privilege and instead instrumentalizes it to guarantee intellectual freedom. Venture Communism requires that this same freedom be extended to material productive assets, as such it seeks to prescribe this freedom to property, not intellectual property, and the chief vehicle of asserting control of productive assets is the firm. Thus Venture Communism is not based on a license, but rather on a corporate form: The Venture Commune. Employing a Venture Commune to share material property hijacks the apparatus that exists to enforce privilege to instead protect a common stock, available for use by independent producers.

Legally, a Venture Commune is a firm, much like the Venture Capital Funds of the Capitalist class, however it has distinct properties which transform it into an effective vehicle for revolutionary worker's struggle. The Venture Commune holds ownership of all productive assets that make up the common-stock employed by a diverse, and geographically distributed network of collective and independent peer producers. The Venture Commune does not co-ordinate production, the peer producers produce according to their own needs and desires, the role of the Commune is only to manage the common-stock, making property available to the peer producers as they require. The Venture Commune is the federation of these workers collectives and individuals workers and is itself owned by each of them. In the case that the worker's are working in a collective or co-operative, ownership is held by the individuals that make up the collective or co-operative individually. Ownership in a Venture Commune can only be acquired by contributions of labour, not property. Only by working is ownership earned, not by contributing land, capital or even money: Only labour. Through the commune, Property is always held in common by all the members of the Commune. The Venture Commune is owned equally by all its members. Each member can only have one share. Thus, each member may never never accumulate a disproportionate share of the proceeds of Property. Property can never be concentrated in fewer and fewer hands.

The function of the Venture Commune is to acquire property and allocate it to its members. The commune acquires property when requested to do so. The members interested in having this property offer a rental agreement giving the terms they wish to have for possession of this property, the Commune issues a series of Bonds which are backed with the demanded property-itself as collateral and the offered rental agreement as guarantee. This series of Bonds are sold with a public auction setting the interest rate. If the Bond sale clears, the property is acquired and the rental agreement is executed. The property returns to the commune whenever those renting it no longer want to or are unable to meet the agreed terms, at which point the Commune offers it, once again at auction, to its members, who bid on new rental terms. If there is no more demand for the asset, it is liquidated. After the Bonds that were issued to acquire an asset are fully redeemed it becomes fully owned by the Commune. The remaining rental income the property earns is from then on divided up equally among all members of the commune and paid out to them, proceeds from liquidated property is likewise divided. In this way, members using exactly their per-capita share of the commune's fully owned property neither pay nor receive any payment, since what the pay in rent for that property will equal what they receive as their share of this income. Members using more than their per-capita share will pay more, and presumably be choosing to pay because they are employing the property as a productive asset, and thus earning enough to pay. Conversely, members using less than their per-capita share receive more in payment than they pay in rent, thus being rewarded for not hoarding property. The main activities of the Venture Commune, managing bonds and rental agreements do not impose a high level of co-ordination and, just like the computer networks that manage the allocation of immaterial goods, are activities that are well suited for computerized automation. Many Venture Communes could be exist and as they become interrelated, merge together forming larger, and more stable and sustainable, communities of commons-based producers.

Proposing a form of class conflict that employs a joint stock corporation, bonds, rental agreements and retains market exchange of the products of labour will be shocking to many revolutionaries. It must be noted that Venture Communism is a only means of class conflict, it is not an ideal. It is intended as a means of organizing production towards the end of building the economic capacity required to engage in class conflict. In the words of the IWW, "not only for everyday struggle with capitalists, but also to carry on production

when capitalism shall have been overthrown. By organizing industrially we are forming the structure of the new society within the shell of the old" Capitalism, a mode of production where the worker earns only subsistence while property owners retain the remainder of the productive output can only create a society in which the interests of the property owner will be reflected in the social institutions and the interests of the producers subjugated. As long as producers operate within the Capitalist mode of production, they can not change society politically, because whatever wealth they can apply to influencing social institutions must come from the share of the product that they retain and thus will always be smaller than the share of the product that can be applied by property owners to prevent this change.

Any change that can produce a more equitable society is dependent on a prior change in the mode of production which increases the share of wealth retained by the worker. The change in the mode of production must come first. This change cannot be achieved politically, not by vote, nor by lobby, nor by advocacy, nor by revolutionary violence. Not as long as the owners of property have more wealth to apply to prevent any change by funding their own candidates, their own lobbyists, their own advocates, and ultimately building up a greater capacity for counter-revolutionary violence. Society cannot be changed by a strike, not as long as owners of Property have more accumulated wealth to sustain themselves during production interruptions. Not even collective bargaining can work, for so long as the owners of Property own the product they set the price of the product and thus any gains in wages are lost to rising prices. Venture Communism should not be understood as a proposal for a new kind of society, it is an organizational form with which to engage in social struggle. Venture Communes are not intended to replace labour unions, political parties, NGOs and other potential vehicles of class conflict., but to complement them, to tilt the economic balance of power in the favour of the representatives of worker's class interest. Without Venture Communism, these other organized forms are always forced to work against opposition with much deeper pockets, and are thus doomed to endless co-option, failure and retreat. Without Venture Communism, we can not change society to better represent the interests of producers. Not by political means, nor by strike, nor by collective bargaining. The only way is to stop applying our labour to property owned by non-producers and instead form a common stock of productive assets. This means taking control of our own productive process, retaining the entire product of our labour, forming our own Capital, and expanding until we have collectively accumulated enough wealth to achieve a greater social influence than those that defend exploitation, making real social change possible, change that is far greater than the modest goals of Venture Communism. A truly free society would have no need for copyleft, copyfarleft or venture communism, these are only practices around which workers can unite towards the the realization of their historic role, building a classless society, a society of equals. Workers of the world unite! You have nothing to lose but your chains. You have a world to win.

# CRITIQUE OF FREE CULTURE

9. A CONTRIBUTION TO A CRITIQUE OF THE POLITICAL ECONOMY OF INFORMATION

10. COPYRIGHT IS AN INSTRUMENT OF CENSORSHIP AND EXPLOITATION.

11. FREE SOFTWARE: COPYRIGHT EATS ITSELF.

12. FREE CULTURE, THE BASTARD CHILD OF FREE SOFTWARE.

13. THE CREATIVE ANTI-COMMONS



## 9. A CONTRIBUTION TO A CRITIQUE OF THE POLITICAL ECONOMY OF INFORMATION

The production of software and cultural works as a factor in class conflict exists within the broader context of the forces and relations of production.

A key distinction that is often overlooked in discussions of intellectual property is that property is not a monolithic category. Immaterial assets must be separated into producer's goods and consumer's goods. Capital demand is distinct from consumer demand "Capital" assets, goods that are employed in production, are different from Inventory, the stocks of consumables, products, that are the output of production. Failure to make this distinction propagates the myth that the success of Free software in creating immaterial producer's goods can be a template for the production of immaterial consumer's goods. Free software and free cultural works must be understood in light of this distinction "Copyleft," despite its success in creating capital stocks such as free software, cannot succeed in producing cultural stocks or provide for the subsistence of artists. For cultural works, copyleft must evolve into "Copy-far-left," which ties the rights to reproduce immaterial assets with the economic mode of production employed, granting free access only to those engaging in co-operative, commons-based production and not embrace counterproductive projects like "The Creative Commons" which represents a "Copy-just-right" approach that attempts to fit a more flexible approach to copyright into a property-based system of capitalist domination. Free culture can not flourish within a class stratified society, but requires a free society, one that produces primarily for social value, not exchange value.

# 10. COPYRIGHT IS AN INSTRUMENT OF CENSORSHIP AND EXPLOITATION.

The existence of "copy rights" predated 18th century notions of the author's right to ownership. From the 16th to the 17th century royal licenses gave exclusive rights to certain publishers to print particular texts. In 1557, England's Queen Anne granted an exclusive printing monopoly to a London guild of printers, the Stationers Company, because it assured the Crown control over which books were published or banned. The first copyrights were publishers' rights to print copies, which emerged out of the ideological needs of absolutist monarchies to control knowledge and censor dissent.

After the Licensing Act expired in 1694, the monopoly of the Stationers Company was threatened by provincial booksellers, the so-called "pirates" from Ireland and Scotland. The Stationers Company petitioned Parliament for a new bill to extend their copyright monopoly. But this was a different England from 1557: Parliament had executed King Charles I in 1649, abolished the monarchy and installed a republic under Cromwell, restored the monarchy with Charles II, overthrew James II in the Revolution of 1688, and, in 1689, it passed the first decree of modern constitutional sovereignty, the Bill of Rights. This was now John Locke's England. The philosopher John Locke was among the chief architects of the liberal state and the ideology of private property, to Locke property was an extension of one's ownership of oneself. As you own yourself, therefore you own what you produce. The right to Property is created by labour. The English Parliament now took a view consistent with this outlook and The Statute of Anne, passed in 1710 by Parliament, turned out to be a hard blow against the Stationers Company. The Statute declared authors, not publishers, to be owners of their works and limited the copyright term to 14 years for new books and 21 years for existing copyrights. The Statute, which was subtitled "An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, During the Times Therein Mentioned," created a marketplace of knowledge through competition. The Statute's aim was not to create an author's copyright but to break the Stationers Company's monopoly.

The principal players in what the press hailed as the great cause concerning literary property were not authors. Publishers sued each other in the courts, invoking the author's rights as a pretext in their battle for economic power. The notion of the author as an originator with a natural right to own ideas may have been invented by artists and philosophers, but it was publishers who profited from it. Laws are not made by poets but by states, and states exist to enforce economic privilege, adopting whatever philosophical legitimization they find convenient at any given time. The Statute of Anne codified the capitalist form of the author-publisher relationship: copyright was attached to the author at birth but automatically assumed by publishers through the "neutral" mechanisms of the market. Authors had a right to own the products of their labour in theory, but since they created immaterial ideas and lacked the technological means to produce books, they had to sell their rights to another party with enough capital to exploit them. In essence, it was no different than having to sell their labour. The exploitation of the author was embedded in the intellectual property regime from its inception.

There are important differences between intellectual property and physical property. Physical property is scarce and finite, while intellectual property can be copied, has almost no reproduction cost, and can be used simultaneously by anyone with a copy. It is exactly this characteristic of unlimited reproducibility that requires the copyright regime to make information into property. In the long term, the exchange value of any reproduce-able good is driven towards its reproduction cost by competition. Since there are few barriers to reproducing an information asset, it can have no exchange value beyond the labour and resources required to reproduce it. In other words, it has no long term exchange value of its own. Thus, owners of this property (again, not to be confused with the producers) need laws to prevent this reproduction. Only by making it illegal for others to copy it can the owners extract Rent for the right to copy. Intellectual Property, including copyright, is the extension of property to immaterial assets and information. Copyright is a legal construction that tries to make certain kinds of immaterial wealth behave like material wealth so that they can be owned, controlled, and traded. In any system of property, musicians collectively can no more retain ownership of the product of their labour than can workers at a textile sweatshop. The system of private control of the means of publication, distribution, promotion and media production ensures that artists and all other creative workers can earn no more than their subsistence. Whether you are biochemist, a musician, a software engineer, or a film-maker, you have signed over all your copyrights to property owners before these rights have any real financial value for no more than the reproduction costs of your work.

If property is theft, as Proudhon famously argued, then intellectual property is fraud. Property is theft, not in

a strictly legal sense, since the laws of the liberal capitalist state are the foundations of property. Property is theft, in the philosophical sense, as the Lockean concept of property as an extension of self-ownership means it is intrinsically unjust to take what you did not produce. Proudhon, like Thompson and Hodgskin before him, argues that the owner of property has no legitimate claim to the product of the direct-producers that employ this property. Without recourse to force, property owners could not extract any more than the reproduction costs of the instruments they contribute to the productive process. A Capitalist class could not exist without denying workers independent access to the means of production. In the words of American Individualist Anarchist Benjamin Tucker, the lender of capital is entitled to its return intact, and nothing more. In this sense, when the peasants of the pre-industrial age were denied access to common land by the new enclosures, it can be said that their land was stolen, and further, that being forced into wage labour as a result of this expropriation, the institution of property itself, since the common lands were not previously property, is an institution of theft. But if physical property can be stolen, can intelligence or ideas be stolen? If your land is stolen, you cannot use it anymore, except on the conditions set by its new private "owner." If ownership of an idea is analogous to the ownership of material property, it should be subject to the same conditions of economic exchange, forfeiture, and seizure - and if seized it would then cease to be the property of its owner. But if your idea is used by others, you have not lost your ability to use it. So what is really stolen? The traditional notion of property, as something that can be possessed to the exclusion of others, is irreconcilable with intangibles like ideas. Unlike a material object, which can exist in only one place at a given time, ideas are infinite and non-exclusive. A poem is no less a poet's poem despite its existence in a thousand memories.

Every expression is an extension of a previous perception. Artistic creation is not born ex nihilo from the brains of individuals as a private language; it has always been a social practice. Ideas are not original; they are built upon layers of knowledge accumulated throughout history. Out of these common layers, artists create works that have their unmistakable specificities and innovations. All creative works reassemble ideas, words, and images from history and their contemporary context. Before the 18th century, poets quoted their ancestors and sources of inspiration without formal acknowledgement, and playwrights freely borrowed plots and dialogue from previous sources without attribution. Homer based the "Iliad" and the "Odyssey" on oral traditions that dated back centuries. Virgil's "Aeneid" is lifted heavily from Homer. Shakespeare borrowed many of his narrative plots and dialogue from Holinshed. This is not to say that the idea of plagiarism didn't exist before the 18th century, but its definition shifted radically. The term plagiarist (literally, kidnapper) was first used by Martial in the 1st century to describe someone who kidnapped his poems by copying them whole and circulating them under the copier's name. Plagiarism was a false assumption of someone else's work. But the fact that a new work had similar passages or identical expressions to an earlier one was not considered plagiarism as long as the new work had its own aesthetic merits. After the invention of the creative genius, practices of collaboration, appropriation and transmission were actively forgotten. When Coleridge, Stendhall, Wilde and T.S. Eliot were accused of plagiarism for including expressions from their predecessors in their works, this reflected a redefinition of plagiarism in accordance with the modern sense of possessive authorship and exclusive property. Their so-called "theft" is precisely what all previous writers had regarded as natural.

Ideas are viral. They couple with other ideas, change shape, and migrate into unfamiliar territories. The intellectual property regime restricts the promiscuity of ideas and traps them in artificial enclosures, extracting exclusive benefits from their ownership and control. Intellectual property is fraud - a legal privilege to falsely represent oneself as the sole "owner" of an idea, expression or technique and to charge a tax to all who want to perceive, express or apply this "property" in their own production. It is not plagiarism that dispossesses an "owner" of the use of an idea; it is intellectual property, backed by the invasive violence of the state, that dispossesses everyone else from using their common culture. The basis for this dispossession is the legal fiction of the author as a sovereign individual who creates original works out of the wellspring of his imagination and thus has a natural and exclusive right to ownership. Foucault unmasked authorship as a functional principle that impedes the free circulation, free manipulation, free composition, decomposition, and recomposition of knowledge. The author-function represents a form of despotism over the proliferation of ideas. The effects of this despotism, and of the system of intellectual property that it shelters and preserves, is that it robs us of our cultural memory, censors our words, and chains our imagination to the law. And yet artists continue to be flattered by their association with the myth of the creative genius, turning a blind eye to how it is used to justify their exploitation and expand the privilege of the property-owning elite. Copyright pits author against author in a war of competition for originality. Its effects are not only economic; it also naturalizes a certain process of knowledge production, delegitimizes the notion of a common culture, and cripples social relations. Artists are not encouraged to share their thoughts, expressions and works or to contribute to a common pool of creativity. Instead, they jealously guard their "property" from others, who they view as potential competitors, spies and thieves lying in wait to snatch and defile their original ideas. This is a vision of the art world created in capitalism's own image, whose ultimate aim is to make it possible for corporations to appropriate the alienated products of its

intellectual workers.

The private ownership of ideas over the last two centuries has not managed to completely eradicate the memory of a common culture or the recognition that knowledge flourishes when ideas, words, sounds and images are free for everyone to use. Ever since the birth of the proprietary author, different individuals and groups have challenged the intellectual property regime and the "right" it gave to some private individuals to "own" creative works while preventing others from using and re-interpreting them. In his 1870 "Poesies," a pair of text discovered and revered by Surrealists Louis Aragon and André Breton, Uruguayan-born French poet Comte de Lautréamont, called for a return of impersonal poetry, a poetry written by all. He added, "Plagiarism is necessary." Progress implies it. It closely grasps an author's sentence, uses his expressions, deletes a false idea, replaces it with a right one. His definition subverted the myth of individual creativity, which was used to justify property relations in the name of progress when it actually impeded progress by privatizing culture. The natural response was to re-appropriate culture as a sphere of collective production without acknowledging artificial enclosures of authorship. Lautréamont's phrase became a benchmark for the 20th century avant-gardes. Dada rejected originality and portrayed all artistic production as recycling and reassembling - from Duchamp's ready-mades, to Tzara's rule for making poems from cut-up newspapers, to the photomontages of Hoech, Hausmann and Heartfield. Dada also challenged the idea of the artist as solitary genius and of art as a separate sphere by working collectively to produce not only art objects and texts but also media hoaxes, interventions at political gatherings and demonstrations on the street. Its assault on artistic values was a revolt against the capitalist foundations that created them.

Dadaist ideas were systematically developed into a theory by the Situationist International. The SI acknowledged that détournement - putting existing artworks, films, advertisements and comic strips through a detour, or recoding their dominant meanings - was indebted to Dadaist practices, but with a difference. They saw Dada as a negative critique of dominant images (one that depended on the easy recognition of the image being negated) and defined détournement as a positive reuse of existing fragments simply as elements in the production of a new work. Détournement was not primarily an antagonism to tradition. It emphasized the reinvention of a new world from the scraps of the old. And implicitly, revolution was not primarily an insurrection against the past but learning to live in a different way by creating new practices and forms of behaviour. These forms of behaviour also included collective writings, which were often unsigned, and an explicit refusal of the copyright regime by attaching the labels "no copyright" or "anticopyright" to their works, along with the directions for use: any of the texts in this book may be freely reproduced, translated or adapted even without mentioning the source.

Digitalization has proven to be much more of a threat to conventional notions of authorship and intellectual property than the plagiarism practiced by radical artists or critiques of the author by poststructuralist theorists. The computer is dissolving the boundaries essential to the modern fiction of the author as a solitary creator of unique and original works. Ownership presupposes a separation between texts and between the author and reader. The artificiality of this separation is becoming more apparent. On mailing lists, newsgroups and open publishing sites, the transition from reader to writer is natural, and the difference between original texts vanishes as readers contribute commentary and incorporate fragments of the original in their response without the use of quotations. Copyrighting on-line writing seems increasingly absurd because it is often collectively produced and immediately multiplied. As on-line information circulates without regard for the conventions of copyright, the concept of the proprietary author really seems to have become a ghost of the past. Perhaps the most important effect of digitalization is that it threatens the traditional benefactors of intellectual property since monopolistic control by book publishers, music labels and the film industry is no longer necessary as ordinary people are taking up the means of production and distribution for themselves.

# 11. FREE SOFTWARE: COPYRIGHT EATS ITSELF.

While property itself is created by law, material assets are scarce and rivalrous by nature. However, because copyable information is made scarce only by law, it can also be made abundant by law. The practice of using copyright law itself as a form of dissent against copyright, called copyleft, grew to prominence in software development and in the rise of the free software community.

Free software guru Richard Stallman, the inventor of the General Public License (GPL), the first copyleft license under which a lot of free software is released, claims that in the age of the digital copy the role of copyright has been completely reversed. While it began as a legal measure to allow authors to restrict publishers for the sake of the general public, copyright has become a publishers' weapon to maintain their monopoly by imposing restrictions on a general public that now has the means to produce their own copies. The aim of copyleft more generally, and of specific licenses like the GPL, is to reverse this reversal. Copyleft uses copyright law, but flips it over to serve the opposite of its usual purpose. Instead of fostering privatization, it becomes a guarantee that everyone has the freedom to use, copy, distribute and modify software or any other work. Its only "restriction" is precisely the one that guarantees freedom — users are not permitted to restrict anyone else's freedom since all copies and derivations must be redistributed under the same license. Copyleft claims ownership legally only to relinquish it practically by allowing everyone to use the work as they choose as long the copyleft is passed down. The merely formal claim of ownership means that no one else may put a copyright over a copylefted work and try to limit its use.

Copyleft licenses guarantee intellectual property freedom by requiring that reuse and redistribution of information be governed by "the four freedoms." These are the freedoms to use, study, modify and redistribute. Seen in its historical context, copyleft lies somewhere between copyright and anticopyright. The gesture by writers of anticopyrighting their works was made in a spirit of generosity, affirming that knowledge can flourish only when it has no owners. As a declaration of "no rights reserved," anticopyright was a perfect slogan launched in an imperfect world. The assumption was that others would be using the information in the same spirit of generosity. But corporations learned to exploit the lack of copyright and redistribute works for a profit. Stallman came up with the idea of copyleft in 1984 after a company that made improvements to software he had placed in the public domain (the technical equivalent of anticopyright, but without the overt gesture of critique) privatized the source code and refused to share the new version. So in a sense, copyleft represents a coming-of-age, a painful lesson that relinquishing all rights can lead to abuse by profiteers. Copyleft attempts to create a commons based on reciprocal rights and responsibilities; those who want to share the common resources have certain ethical obligations to respect the rights of other users. Everyone can add to the commons, but no one may subtract from it.

But in another sense copyleft represents a step back from anticopyright and is plagued by a number of contradictions. Stallman's position is in agreement with a widespread consensus that copyright has been perverted into a tool that benefits corporations rather than the authors for whom it was originally intended. But no such golden age of copyright exists. Copyright has always been a legal tool that coupled texts to the names of authors in order to transform ideas into commodities and turn a profit for the owners of capital. Stallman's idealized view of the origins of copyright does not recognize the exploitation of authors by the early copyright system. This specific myopia about copyright is part of a more general non-engagement with economic questions. The "left" in copyleft resembles a vague sort of libertarianism whose main enemies are closed, nontransparent systems and totalitarian restrictions on access to information rather than economic privilege or the exploitation of labour. Copyleft emerged out of a hacker ethic that comes closest to the pursuit of knowledge for knowledge's sake. Its main objective is defending freedom of information against restrictions imposed by "the system," which explains why there's such a wide range of political opinions among hackers. It also explains why the commonality that links hackers together — the "left" in Stallman's vision of copyleft — is not the left as it is understood by most political activists.

The GPL and copyleft is frequently invoked as an example of the free software movement's anticommercial bias. But there is no such bias. The four freedoms required by the GPL — the freedom to run, study, distribute and improve the source code so long as the same freedom is passed down — means that any additional restriction, like a non-commercial clause, would be non-free. Keeping software "free" does not prevent developers from selling copies they've modified with their own labour, and it also does not prevent redistribution for a fee by a commercial company, as long as the same license is passed down and the source code remains transparent. This version of freedom does not abolish exchange, as some free software enthusiasts have claimed, nor is it even incompatible with a capitalist economy based on the theft of surplus

value. The contradiction inherent in this commons is partly due to the understanding of proprietary as synonymous with closed-sourced or non-transparent. Proprietary means having an owner who prohibits access to information and keeps the source code secret; it does not necessarily mean having an owner who extracts a profit, although keeping the source code secret and extracting a profit often coincide in practice. As long as the four conditions are met, commercial redistribution of free software is non-proprietary.

Software is capital, it is a producer's good. As such, it doesn't need to capture profit directly in order to be an input into a productive process that ultimately captures profit. Software is used in production. Virtually every office, every academy and every factory relies on software in their day-to-day work. For all these organizations, the use-value of software can be directly translated into exchange-value in the course of their normal production, not by selling the software directly but by doing whatever business they do, selling whatever product they sell and using software to increase their productivity. Paying for software licenses and agreeing to the restrictive terms of such licenses is not in their interests. As David Ricardo said about landlords, the interest of a software company like Microsoft is always opposed to the interest of every software user. The organizations that use software, namely schools, factories, offices, and e-commerce enterprises, collectively employ far more software developers than the few companies who sell proprietary software, such as Microsoft. Thus, free software is very attractive to them as it allows them to reduce their individual development costs by collectively maintaining a common stock of software assets. Thus, the use-value of free software is wanted by organizations who can and do pay software developers to make it, even though they have no exclusive copyright on it. Just like Liberal Capitalists like David Ricardo worked to break the advantages Landlords had against Capitalists by attacking restrictions on trade such as the Corn Laws which increased the price of industrial inputs, technology giants like IBM today endorse free software and copyleft to reduce the costs of their own production and overcome advantages of Software companies like Microsoft and Oracle.

Yet, free software was not conceived as merely a way to reduce the cost of corporate software development. Richard Stallman writes on his organization's website: 'My work on free software is motivated by an idealistic goal: spreading freedom and cooperation. I want to encourage free software to spread, replacing proprietary software that forbids cooperation, and thus make our society better.' Since free software can not directly capture exchange value, producers of free software must still sell their labour to provide for their material subsistence. Copyleft is thus not able to "make society better" in any material sense because the majority of the extra exchange value created by producers of free software is captured by owners of material property who are able to provide for their subsistence. As copyleft cannot allow workers to accumulate wealth beyond customary subsistence, copyleft alone cannot change the distribution of productive assets or their output. Therefore copyleft has no direct impact on the distribution of wealth and power.

Just as copyleft is in some ways a retreat from the ideological position of anticopyright, the political position of copyleft is very much a retreat from the ideological position of the socialist left, even when it appropriates arguments against property from the left it limits the critiques to the narrow field of immaterial property. A particularly shameless example of this is Eben Moglen's "dotCommunist Manifesto," an insulting pastiche of the seminal Marx and Engels manifesto that invokes the 1848 call to arms for the working class to unite towards the abolishment of capitalism only to instead demand the abolishment of intellectual property alone. The two 19th century Materialists would have understood that abolishing intellectual property would not free the working class of their chains. Moglen, Columbia University law professor and chief consul for Stallman's Free Software Foundation, fails to engage with the issue of the institution of property itself, and thus has learned nothing from the position of the revolutionaries he smugly mimics.

Yet, despite the ideological and political retreats that copyleft represents, in the area of software development, copyleft has proved to be a tremendously effective means of creating an information commons that broadly benefits all those whose production depends on it, and the rise of the free software movement is rightly an inspiration to all who strive towards more equitable forms of producing. The Socialist left promotes the idea that wealth must be more justly and equitably shared and controlled by the people who produce it. Perhaps the best method of achieving this is through decentralized, worker-owned enterprises, co-operatives, and councils. For the same reason that capitalist organizations support copyleft software, because it represents a common stock of use value they can apply to production, commons-based producers and therefore all worker self-organized enterprises can also benefit from such a common stock of copyleft art and can incorporate artists in their collective enterprises. As the International Workers of the World state in the preamble to their Constitution (1905) "It is the historic mission of the working class to do away with capitalism. The army of production must be organized, not only for everyday struggles with capitalists but also to carry on production when capitalism shall have been overthrown. By organizing industrially we are forming the structure of the new society within the shell of the old."

Free Software, is therefore of inestimable value for worker's self-organized production, giving us a source of valuable capital, software, that would have previously been exclusively controlled by proprietarian corporations and thereby reduces losses to Rent and allowing us a possibility to retain a greater portion of the product of our labour. And perhaps just as importantly, the free software community pioneers ways to co-operatively organize large scale distributed projects, bringing together internationally dispersed contributors effectively working towards the design, development and deployment of valuable software. In these ways the free software movement makes important contributions towards the goal of "organizing industrially we are forming the structure of the new society within the shell of the old."

This is not to say free software has no revolutionary value, it's value has to be understood in context, and is not applicable exclusively towards revolutionary aims, but it also usable towards non-revolutionary and even reactionary aims as well. The application of copyleft is only potentially revolutionary to the degree that it is employed towards revolutionary aims, and it's applicability is limited to immaterial producer's good, intellectual capital such as software. Just as free software is used by capitalist organizations, there can also be situations where worker's controlled organizations may chose to use commercial software, in cases where the freely available options are less productive than non-free ones and the increased productive output is greater than the lost Rent. Such a choice should be made with caution though, as not only does the lost Rent contribute to the capacities of reaction (which can be avoided, with some risk, by pirating software), but an opportunity to contribute to the development of the freely available is missed.

The question must also be asked to what degree does "copyleft" really benefit the free software movement, despite examples such as Stallman's formative experience of having his public domain software privatized in 1984, there are also ample counter examples of large scale free software projects that continue to employ licenses that allow proprietary redistribution, such as various BSD based operating systems and the hugely popular Apache web server. While a corporation can employ code from these projects in proprietary applications, it does so at a cost, by separating their development from the main free software project, they have to manually patch or reimplement code improvements from the free distribution into their own fork and forgo help from the free software community in improving their own proprietary contributions. Meaning that companies that chose to make proprietary versions of free software need a strong business reason to do so, in practice this rarely happens as proprietary versions tend to quickly fall behind the free software versions in functionality and thereby lose their market value.

Most successful examples of proprietary use come from companies whose primary business is selling hardware, not software, such as Apple Computer or Juniper routers, both of which run proprietary versions of software derived from BSD-based projects. That Apple and Juniper make their software proprietary, not to sell the software, but to bundle it with their expensive hardware, is demonstrated by both companies efforts to stop users from legally buying the software to run on cheaper commodity hardware, e.g. Apples efforts to thwart the Hackintosh project and legal action against companies selling non-Apple hardware preloaded with legally purchased copies of OS X.

Examples like this demonstrate the emphasis on freedom embedded within copyleft, Apple's actions have not threatened the BSD-based free software projects they have drawn from, in fact Apple has contributed to these projects, however the BSD style license allows Apple to control their users and deny their freedom in using their legally purchased software as they please. They would not have such an option if their OS was based on copyleft licensed software such as Linux, which is published under the GPL.

# 12. FREE CULTURE, THE BASTARD CHILD OF FREE SOFTWARE.

Despite Copyleft's beneficial role in forming a valuable common-stock of software, it remains problematic when the model is retrofitted back to the original domains of art and culture from which dissent against intellectual property sprung. Cultural works, unlike software, are a consumer's good, not a producer's good. The distinction between Producer's goods (Capital) and consumer's goods (Products) is a core distinction in economic discussion, which separates the inputs to production into three factors, Land, Labour and Capital. The application of these three factors results in the productive output, the products, which are the yield of the productive process, the distribution of these products among the providers of the three inputs is income, divided as Rent, Wages, and Interest, respectively. The balance between these incomes determines the distribution of wealth in society. Economic discussions of property must distinguish between Capital and Product, that is between producer's goods and consumer's goods. The distinction is not always obvious when referring to any particular article, for instance a tractor would normally be considered a productive asset, and therefore Capital, however someone may also purchase a tractor for recreational purposes, as a sort of recreational vehicle. In this case this particular tractor is not really Capital, however this does not change the fact that in most cases, the manufacturer of tractors is funded by Capital demand, not consumer demand. Capitalism is naturally willing to fulfill Capital demand, regardless of whether any profit or made doing so, so long as it can make a profit from whatever Consumer demand is being fulfilled in end.

Art is not, in most cases, a common input to production as software is. Thus its demand is Consumer demand, not Capital demand. There are certainly cases where Artworks could be considered productive inputs, for instance sound effects, clip art, music clips and the like, and the tradition of artists drawing on the work of their predecessors has been discussed at length, however when we discuss the economics of content-based works, like poems, novels, films, or music, as well as entertainment oriented software titles such as games, we are not talking about producer's goods, but consumer's goods. Owners of property will support the creation of copyleft software in order to employ it in production. However, in most cases, they will not support the creation of copyleft art. Why would they? They are not in the business of giving away consumer's good for free. They are in the business of earning profits by controlling the distribution of consumer's goods. Like all copyable information, content-based works have no direct exchange value, and unlike software they rarely have use value in production either. Use value exists only among the fans of these works, and if owners of property can not charge these fans money for the right to copy, why would they fund the production? And if owners of property will not support copyleft art, which is freely distributed, who will? The answer is unclear. In some cases institutions such as private and state cultural funds will, but these can only support a very small number of artists, and only by employing a dubious and ultimately somewhat arbitrary selection criteria in deciding who does, and who does not, receive such funding.

The problem is obvious when attempting to translating copyleft to cultural works.. If someone releases a novel under a copyleft license, and Random House prints it and makes a profit off the author's work, Random House has not violated copyleft as long as the copyleft is passed down. To be free means to be open to commercial appropriation, since freedom is defined as the non-restrictive circulation of information rather than as freedom from exploitation. It comes as no surprise that the major revision in applying copyleft to the production of artworks, music and texts has been to permit copying, modifying and redistributing as long as it's non-commercial. Wu Ming claims it is necessary to place a restriction on commercial use or use for profit in order to prohibit the parasitic exploitation of cultural workers. They justify this restriction, and its divergence from the GPL and GFDL versions of copyleft, on the grounds that the struggle against exploitation and the fight for a fair remuneration of labour is the cornerstone of the history of the left. Other content providers and book publishers (Verso, for example) have expanded this restriction by claiming that copying, modifying and redistributing should not only be non-profit but also in the spirit of the original - without explaining what this "spirit" means. Indymedia Romania revised its copyleft definition to make the meaning of "in the spirit of the original" clearer after repeated problems with the neofascist site Altermedia Romania, whose "pranks" ranged from hijacking the indymedia.ro domain to copying texts from Indymedia and lying about names and sources. Indymedia Romania's restrictions include: not modifying the original name or source since it goes against the desire for transparency, not reproducing the material for profit since it abuses the spirit of generosity, and not reproducing the material in a context that violates the rights of individuals or groups by discriminating against them on the basis of nationality, ethnicity, gender or sexuality, since that contradicts its commitment to equality.

Stallman's original definition of copyleft attempts to found an information commons solely around the



principle of information freedom. In this sense it is purely formal, like a categorical imperative that demands freedom of information to be universalizable. The only limit to belonging to this community is those who do not share the desire for free information, and in any case they are not excluded but only they refuse to participate because they refuse to make information free. Other versions of copyleft have tried to add further restrictions based on a stronger interpretation of the "left" in copyleft as needing to be based not on a negative freedom from restrictions but on positive principles, like valuing social cooperation above profit, non-hierarchical participation and non discrimination. The more restrictive definitions of copyleft attempt to found an information commons that is not just about the free flow of information but sees itself as part of a larger social movement that bases its commonality on shared leftist principles. In its various mutations, copyleft represents a pragmatic, rational approach that recognizes the limits of freedom as implying reciprocal rights and responsibilities. The different restrictions represent divergent interpretations about what these rights and responsibilities should be. Yet, given the poor economic condition of the majority of artists who reserve full copyrights, the prospect of mutations of copyleft that restrict commercial usage by way of including "non-profit" or "non-commercial" terms improving the economic conditions of the artists that use seems remote. Artists, like other workers, have no means to bargain for anything more than subsistence. The chief advantage of reserving commercial rights is the right of the creators to transfer ownership of their works to the propertied class whenever the propertied class finds it in its interests to take ownership, and, of course, entirely on the terms dictated by the propertied class. This is illustrated in "Artists Earnings and Copyright" by Martin Kretschmer, Professor of Information Jurisprudence at Bournemouth University, where he concludes that "The creator has little to gain from exclusivity" and in his 2006 study *Empirical Evidence On Copyright Earnings*, which states: "Earnings from non-copyright, and even non-artistic activities, are an important source of income for most creators," which includes many startling statistics. For example, the median payment distributed by the Performing Right Society (UK) in 1994 to its copyright holders was £84.

"Non-commercial" terms are very problematic for advocates of worker's self organized production, as these terms restrict the ability of non-capitalist enterprises to reproduce such works, and thus such licenses are corrosive, not only to the interests of artists, but to all workers as they are not compatible with the general objective of the socialist left: the creation of a worker's controlled economy. In order for copyleft to mutate into a revolutionary instrument in the domain of cultural production it must become Copy-far-left. It must insist upon worker's ownership of the means of production. The works themselves must be a part of the common stock and available for productive use by other commons-based producers. So long as the authors reserve the right to make money with this work and prevent other commons based producers from doing so, the work can not be considered to be in the commons at all and remains a private work, a non-commercial copyleft is thereby a non-free license. A copyfarleft license, to avoid being non-free, must not restrict commercial usage, but rather usage that is not commons-based. Specifically, copyfarleft must have one set of rules for those who are working within the context of workers ownership and another for those who employ private property and wage labour in production. A copyfarleft license should make it possible for producers to share freely and to retain the value of their labour product. In other words, it must be possible for workers to earn remuneration by applying their own labour to mutual property but impossible for owners of private property to make profit using wage labour. Thus, under a copyfarleft license, a worker-owned printing cooperative could be free to reproduce, distribute, and modify the common stock as they like, but a privately owned publishing company would be prevented from having free access. In this way copyfarleft remains free in the same sense as copyleft is free, despite restrictions on proprietary redistribution, it only restricts taking away from the commons, not contributing to it. A copyfarleft license would allow commons-based commercial use while denying the ability to profit by exploiting wage labour. The copyleft Non-Commercial approach does neither; it prevents commons-based commerce while not effectively restricting wage exploitation, which requires a change in the distribution of wealth, and only a license that effectively prevents alienated property and wage labour from being employed in the reproduction of the otherwise free-information commons can change the distribution of wealth. Copyleft provides a solid foundation for software in commons-based productions. Copyfarleft could potentially provide a workable foundation for cultural works to also become a part of the common stock employed by independent producers.

However for Copyfarleft to have an impact, it would need to be employed within the context of a nascent worker's economy that includes various forms of production, cultural and material. Art as well as food, etc. In the absence of such an environment, copyleft and its various mutations have little advantage for the majority of artists for whom the prospects of gaining financially by way of commercial licensing are negligible. For these artists Anticopyright retains its strong appeal. Anticopyright is a gesture of being radical that refuses pragmatic compromises and seeks to abolish intellectual property in its entirety. Anticopyright affirms a freedom that is absolute and recognizes no limits to its desire. The incompatibility between these positions poses a dilemma: does one affirm absolute freedom, knowing it could be used against one, or moderate freedom by restricting the information commons to communities that won't abuse it because they share the same "spirit?" While some have multiplied restrictions, others have rejected any restriction at all,

including the single restriction imposed by the initial copyleft. It is the movement around peer-to-peer file sharing that comes closest to the gesture of anticopyright. The best example is the Copyriot blog by Rasmus Fleischer of Pyratbiran (Bureau of Piracy), an anti-IP think tank and the one-time founders of Pirate Bay, the best known Bittorrent site in the P2P community. The motto of copyriot is "No copyright. No license." But there is a difference from the older anticopyright tradition. Fleischer claims that copyright has become absurd in the age of digital technology because it has to resort to all sorts of fictions, like distinctions between uploading and downloading or between producer and consumer, which don't actually exist in horizontal P2P communication. Pyratbiran rejects copyright in its entirety, not because it was flawed in its inception but because it was invented to regulate an expensive, one-way machine like the printing press and no longer corresponds to the practices that have been made possible by current technologies of reproduction. However, despite the absurdity of the fictions on which copyright rests, the broader political context suggests that copyleft inspired models also have an important role to play as outright rejection of the legal environment is not always possible when practical considerations are taken into account. Building alternative ways of producing and sharing, "building the new society within the shell of the old," requires us to operate within the Capitalist legal system where the logic of capture and exploitation is embedded, and while space for defiant gestures exists, we must also get on with the business of finding the forms and structures required to build and expand the commons, and it seems clear that restrictions such as those of copyleft and copy-far-left serve to protect the commons and keep it free.

Others, such as Joost Smiers, Professor Emeritus of Political Science of the Arts at the Utrecht School of the Arts also insist on the abolishment of Copyright. He argues that copyright centralizes media ownership by giving large media conglomerates an anti-competitive advantage which damages the position of artists. Artists would benefit more from a level playing field consisting of larger number of publishers competing for their services than from exclusivity of copyright. Professor Smiers has a valid point, copyright is a market inefficiency. It should be abolished. However there is no reason to believe it will be abolished. Copyright is far from the only market inefficiency in the contemporary capitalist market. Without market inefficiencies, Capital would be unable to capture any more than it's own reproduction cost in any branch of industry, the elimination of competition is central to the logic of Capitalism. Without unfair advantages, a Capitalist class of owners could not accumulate wealth and there could be no Capitalism. Smiers is correct in his criticism of copyright, he is also correct when he goes further and denounces copyright as a form of censorship, however as with all political ideas, it can only be implemented when those that support it can overcome the wealth of those who oppose it, and that is not currently the case. So long as copyright continues to exist, copyleft inspired licenses continue to be needed to allow intellectual freedom within the copyright regime.

# 13. THE CREATIVE ANTI-COMMONS

The emergence of free software, file sharing and art forms based upon sampling and reuse of other media has created a serious problem for the traditional copyright system. The music and film industries, in particular, are in the middle of what basically amounts to an all-out war against their own consumers to prevent them from downloading and sampling their property. It is clear that digital network technology poses a serious problem to the recording and film industries.

In the earlier stages of the free software movement most corporations, especially software companies, reacted very negatively to the idea of copyleft, and tried to fight it with the same aggressive tactics. The Recording Industry Association of America (RIAA) and its friends are unleashing on the file sharing community. Most famous of these was the SCO Group's legal actions against companies that use or promote Linux. The actions of RIAA can be understood in that same way: it is a conservative reaction to protect their interests. However, not all owners of property believe that legal action can stop new technologies from emerging. Many believe that the music and film industry will need to adapt and that copyright law must be modified for this changing environment. Thus, just as capital joined the copyleft software movement to reduce the cost of software development, capital is also joining the copyright dissident art movement to integrate file sharing and sampling into an otherwise property-based system of control.

The dissidents of intellectual property have had a rich history among avant-garde artists, zine producers, radical musicians, and the sub-cultural fringe. Today the fight against intellectual property is being led by lawyers, professors and members of government. Not only is the social strata of the leading players very different, which in itself might not be such an important detail, but the framework of the struggle against intellectual property has completely changed. Before law professors like Lawrence Lessig became interested in IP, the discourse among dissidents was against any ownership of the commons, intellectual or physical. Now center stage is occupied by supporters of property and economic privilege. The argument is no longer that the author is a fiction and that property is theft but that intellectual property law needs to be restrained and reformed because it now infringes upon the rights of creators. Lessig criticizes the recent changes in copyright legislation imposed by global media corporations and their powerful lobbies, the absurd lengths to which copyright has been extended, and other perversions that restrict the creativity of artists. But he does not question copyright as such since he views it as the most important incentive for artists to create. The objective is to defend against IP extremism and absolutism, while preserving IP's beneficial effects.

In his keynote at Wizards of OS4 in Berlin, Lessig celebrated the Read-Write culture of free sharing and collaborative authorship that has been the norm for most of history. During the last century this Read-Write culture has been thwarted by IP legislation and converted to a Read-Only culture dominated by a regime of producer-control. Lessig bemoans the recent travesties of copyright law that have censored the work of remix artists like DJ Dangermouse (The Grey Album) and Javier Prato (Jesus Christ: The Musical). Both were torpedoed by the legal owners of the music used in the production of their works, as were John Oswald and Negativland before them. In these cases the wishes of the artists, who were regarded as mere consumers in the eyes of the law, were subordinated to control by the producers - the Beatles and Gloria Gaynor, respectively - and their legal representatives. The problem is that producer-control is creating a Read-Only culture and destroying the vibrancy and diversity of creative production. It is promoting the narrow interests of a few privileged "producers" at the expense of everybody else. Lessig contrasts producer-control to the cultural commons - a common stock of value that all can use and contribute to. The commons denies producer-control and insists on the freedom of consumers. The "free" in free culture refers to the natural freedom of consumers to use the common cultural stock and not the state-enforced freedom of producers to control the use of "their" work. In principle, the notion of a cultural commons abolishes the distinction between producers and consumers, viewing them as equal actors in an ongoing process.

Lessig claims that today, within the context of the Creative Commons project more specifically, the possibility of a Read-Write culture is reborn. But is the Creative Commons really a commons? According to its website, Creative Commons defines the spectrum of possibilities between full copyright - all rights reserved - and the public domain - no rights reserved. Our licenses help you keep your copyright while inviting certain uses of your work - a "some rights reserved" copyright. The point is clear: Creative Commons exists to help "you," the producer, keep control of "your" work. You are invited to choose among a range of restrictions you wish to apply to "your" work, such as forbidding duplication, forbidding derivative works, or forbidding commercial use. It is assumed that as an author-producer everything you make and everything you say is your property. The right of the consumer is not mentioned, nor is the distinction between

producers and consumers of culture disputed. Creative Commons legitimates, rather than denies, producer-control and enforces, rather than abolishes, the distinction between producer and consumer. It expands the legal framework for producers to deny consumers the possibility to create use-value or exchange-value out of the common stock.

This problem of creating "commons deeds" for works that are not really a common stock is typical of the Copy-just-right approach typified by the Creative Commons. Had the Beatles and Gloria Gaynor published their work within the framework of Creative Commons, it would still be their choice and not the choice of DJ Dangermouse or Javier Patro whether "The Grey Album" or "Jesus Christ: The Musical" should be allowed to exist. The legal representatives of the Beatles and Gloria Gaynor could just as easily have used CC licenses to enforce their control over the use of their work. The very problem of producer-control presented by Lessig is not solved by the Creative Commons "solution" as long as the producer has an exclusive right to choose the level of freedom to grant the consumer, a right that Lessig has never questioned. The Creative Commons mission of allowing producers the "freedom" to choose the level of restrictions for publishing their work contradicts the real conditions of commons-based production. Lessig's has no basis to use DJ Dangermouse and Javier Patro as examples to promote the cause of Creative Commons.

Lessig's praise of the Free Software movement likewise rings false because its architecture assures everyone (technologically as well as legally, in the form of its licenses) the possibility to use the common resource of the source code. Despite its claim to be extending the principles of the free software movement, the freedom Creative Commons gives to creators to choose how their works are used is very different from the freedom the GPL gives to users to copy, modify and distribute the software as long as the same freedom is passed down. Stallman recently made a statement rejecting Creative Commons in its entirety because some of its licenses are free while others are non-free, which confuses people into mistaking the common label for something substantial when in fact there is no common standard and no ethical position behind the label. Whereas copyleft claims ownership legally only to relinquish it practically, the references to ownership by Creative Commons is no longer an ironic reversal but real. The pick and choose CC licenses allow arbitrary restrictions on the freedom of users based on an authors' particular preferences and tastes. In this sense, Creative Commons is a more elaborate version of copyright. It doesn't challenge the copyright regime as a whole, nor does it preserve its legal shell in order to turn the practice of copyright on its head, as copyleft does.

The public domain, anticopyright and copyleft are all attempts to create a commons, a shared space of non-ownership that is free for everyone to use. The conditions of use may differ, according to various interpretations of rights and responsibilities, but these rights are common rights and the resources are shared alike by the whole community. Their use is not decided arbitrarily, on a case by case basis, according to the whims of individual members. By contrast, Creative Commons is an attempt to use a regime of property ownership (copyright law) to create a non-owned, culturally shared resource. Its mixed bag of cultural goods are not held in common since it is the choice of individual authors to permit their use or to deny it. Creative Commons is really an anti-commons that peddles a capitalist logic of privatization under a deliberately misleading name. Its purpose is to help the owners of intellectual property catch up with the fast pace of information exchange, not by freeing information, but by providing more sophisticated definitions for various shades of ownership and producer-control.

What began as a movement for the abolition of intellectual property has become a movement of customizing owners' licenses. Almost without notice, what was once a very threatening movement of radicals, hackers and pirates is now the domain of reformists, revisionists, and apologists for capitalism. When capital is threatened, it co-opts its opposition. We have seen this scenario many times throughout history; its most spectacular example is the transformation of self-organized workers' councils into a trade union movement that negotiates legal contracts with the owners of corporations. The Creative Commons is a similar subversion that does not question the "right" to private property but tries to get small concessions in a playing field where the game and its rules are determined in advance. The real effect of Creative Commons is to narrow political contestation within the sphere of the already permissible.

While narrowing this field of contestation, Creative Commons simultaneously portrays itself as radical, as the avant-garde of the battle against intellectual property. Creative Commons has become a kind of default orthodoxy in non-commercial licensing, and a popular cause among artists and intellectuals who consider themselves generally on the left and against the IP regime in particular. The Creative Commons label is moralistically invoked on countless sites, blogs, speeches, essays, artworks and pieces of music as if it constituted the necessary and sufficient condition for the coming revolution of a truly "free culture." Creative Commons is part of a larger copyright movement, which is defined as a fight to keep intellectual property tethered to its original purpose and to prevent it from going too far. The individuals and groups associated with this movement advocate what has been called a smarter IP, or a reform of intellectual

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